

BEFORE THE CALIFORNIA ENERGY COMMISSION OF THE STATE OF CALIFORNIA

Informational Proceeding and)	
Preparation of the 2004 Integrated)	Docket 03-IEP-01
Energy Policy Report (IEPR) Update)	
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Comments of Sempra Energy Resources

A. Introduction

Sempra Energy Resources (hereinafter, "Sempra Resources") submits the following comments in response to the Working Draft of the report entitled, "Planning for California's Future Transmission Grid," issued by the Commission in the above-entitled docket. Sempra Resources is a member of the Sempra Energy Global Enterprises family of business units that collectively comprise the nonutility businesses of Sempra Energy Corporation. Sempra Resources is the developer, owner and operator of over 3000 megawatts of high-efficiency, state-of-the-art generation located throughout the United States, principally serving markets in the southwestern United States. In the few short years since its birth, Sempra Resources has completed the construction of and/or placed into operation more generating capacity than has its century-plus-old sister utility, San Diego Gas & Electric, and has earned a national reputation as a best-in-class developer-operator of energy facilities.

Sempra Resources fully supports the ongoing efforts of the Commission to rationalize the processes by which the State of California evaluates and permits new energy infrastructure that will benefit the state and its economy as well as consumers and industries resident in the state. In that regard, Sempra Resources supports the findings and recommendations included in the Final Integrated Energy Policy Report related to the vesting of siting and permitting jurisdiction in this Commission. The transmission policy white paper addressed by these comments is fundamentally consistent with Sempra Resources' own views with respect to the economic and strategic values inherent in a robust transmission system. Despite unanimous agreement within the energy industry as to the magnitude and legitimacy of these values, the current California permitting scheme for transmission projects and upgrades omits their evaluation in favor of more narrowly drawn tests of short-term cost-benefit impacts to some subset of ratepayers. Sempra Resources applauds the Commission for articulating a more expansive view of the benefits of the transmission system and potential projects and upgrades, and believes the analytical approaches articulated in

the white paper will go a long way toward assuring the adequacy of the future California transmission system and the broader western regional grid with which it is interconnected. Sempra Resources agrees with the fundamental planning principles presented in the white paper, and submits these comments so as to augment the range of policies that would assure that new projects are brought forward, permitted and constructed on a timely basis to the benefit of California consumers.

B. Position of Sempra Resources

Sempra Resources submits that the white paper completely ignores an important aspect of assuring that investment in new transmission upgrades and facilities will be timely, namely, that the State should adopt policies supporting and facilitating investment in the transmission system by nontraditional, nonutility developers. As an owner-operator of generating facilities, Sempra Resources has an enormous financial stake in seeing that the transmission system is open, adequate, reliable, flexible, efficient and technologically sound. The value of the plants owned and operated by Sempra Resources, our access to market, and even the daily operations of each of our units are directly affected by the adequacy of the transmission system. As that stake has increased with the scale and scope of our business, Sempra Resources has concluded that the success of our business would be more assured if, where appropriate, we were to take a direct financial position in new transmission capacity and accordingly invested in transmission-enhancing projects and construction.

The State and this Commission should be well aware that Sempra Resources' position is neither new nor unique. Recently, the California Public Utilities Commission deferred to the financial wherewithal of a nontraditional transmission owner, Trans-Elect, to construct and hold interests in a vital system upgrade that will relieve the north-south bottleneck across Path 15. (See *Re Pacific Gas & Electric, Decision 03-05-083*, Application 01-04-012; May 29, 2003.) Additionally, the California Independent System Operator recently implemented new Tariff Section 3.2.7.3(d) that would reward nonutility transmission project sponsors for their investment in transmission upgrades. These tariff provisions permit nonutility sponsorship of transmission upgrades and accord appropriate benefit (e.g., firm transmission rights) to such sponsors in a share proportionate to the enhanced capacity resulting from their investment. (See *ER03-407-002 and -003*, 104 *FERC ¶¶61,128*.) The changes in the tariff were prompted by the investment in upgrades to Path

59, an existing Southern California Edison transmission path, by a merchant subsidiary of Florida Power & Light. At the national level and in order to encourage nonutility investment in new transmission capacity, the Federal Energy Regulatory Commission has promulgated rules under which nonutility transmission services may be provided under market-based and negotiated rates. (See *Re Northeast Utility Services*, 98 FERC ¶61,310; accord, *Chesapeake Transmission, LLC*, Docket ER03-1311-000.)

As conceded by all but one of the participants responding to Sempra Resources' statement at the Commission's November 6th workshop in this matter, increasing the pool of developers that might invest in new transmission facilities would have the salutary effect of increasing the probability that needed facilities would be added when and where needed. So that the benefit and value of nonutility investments in transmission are not lost, Sempra Resources respectfully submits that the Commission's further investigation for which the white paper sets the stage must consider issues and, ultimately, should adopt specific policies encouraging such investment by nonutility entities such as Sempra Resources.

Sempra Resources' interest in these matters is hardly academic. Sempra Resources is actively evaluating investments in several transmission projects and ostensibly could be among the first applicants to file for permits should this Commission become the relevant siting jurisdiction for proposed transmission projects. As an example, Sempra Resources is reviewing a project that would increase transfer capacity on Path 49, a transmission link by which California accesses low-cost electricity supplies in the southwestern United States. An enhancement to the relevant transmission system in the area would reduce the frequency of congestion now routinely experienced on this important path, enhancing economic energy exchange and trade between California and markets east of California. Sempra Resources submits that the project would be of substantial value to the California consumer and further integrate the California transmission system with the southwestern grid and interconnected generation to the east of the state, among the key intrinsic values of transmission cited by the white paper as historically and shortsightedly ignored under traditional California regulatory analyses.

So that proposed projects such as the Path 49 upgrade will be built and the risks and costs of the upgrade are allocated appropriately, Sempra Resources urges the Commission to support nonutility investments in transmission projects as a key outcome of this proceeding. In the following section of these comments, Sempra Resources identifies the most critical and salient

issue that might prevent such investments and calls upon the Commission to resolve the issue as part of the Update proceeding so as to bring the issue before the Governor and the Legislature.¹

C. Issues Related to Development of Transmission Infrastructure by Nonutilities

As the Commission is well aware, the permitting process associated with transmission projects can be extremely daunting to the developer. Most projects, particularly those involving new routes, are likely to meet with substantial local opposition and hard-fought, often protracted litigation. While even projects using existing corridors and towers face these potential obstacles, the likelihood of success from the developer vantage point improves, perhaps by some geometric function, when preexisting routes and infrastructure are incorporated into the design of the project. This places the nonutility seeking to use existing routes and infrastructure at a considerable disadvantage, or at least subjects it to considerable uncertainty, inasmuch as an independent developer's rights to build along such routes and using existing facilities would be subject to the agreement of the utility owning the relevant facilities. Sempra Resources submits that the Commission should explore the development of a queuing system that would allow nonutility projects incorporating existing utility rights-of-way and infrastructure to be brought to market expeditiously. Moreover, such a queuing system, regardless of the extent to which a utility's existing facilities are involved, would remove risks to the independent developer that its proposed project could be usurped or co-opted by the utility to which the project would be interconnected.

Sempra Resources submits that the Commission, as part of this proceeding, should assume the responsibility of designing the details of a fair queuing system that would assure the best projects and best-positioned developers could proceed. Sempra Resources suggests that the rules governing generator interconnections provide useful guidance as to the parameters upon

¹ Sempra Resources acknowledges that the State Treasurer may bring the issue of providing for adequate transmission before the Legislature prior to the completion of the instant docket. Sempra Resources submits that, contrary to the declarations of the State Treasurer, there is neither a lack of private capital nor will to complete needed transmission upgrades. Rather, permitting issues, including the issues raised in these comments, prevent timely economic development of the transmission system. Sempra Resources urges the Commission to move expeditiously to complete its analysis on transmission issues and place its expert recommendations before the Governor and Legislature in a manner that permits them at a minimum to be considered contemporaneously with the State Treasurer's initiative.

which a proper queuing system might be founded. First, project proposals that are first-in-time should receive some priority as against duplicative or alternative projects. Second, payment of fees supporting interconnection studies should vest certain rights in the paying developer to proceed. Third, a dispute-resolution mechanism should be provided to address those situations where disputes arise as to whether a project or a specific developer or a competing utility project should be permitted to proceed. At present, Sempra Resources believes that the California Independent System Operator may be the appropriate arbiter as to the need assessment of a project, but that some other state agency should be responsible for deciding between competing developers in the event similar or identical projects are proposed by more than one party and the primary criterion of first-in-time for some reason fails to confer priority that would be undisputed or clear. Sempra Resources suggests a jurisdiction other than the California ISO should resolve such disputes because other agencies are more familiar with resolving subtle, but equally important, public policy issues such as the most appropriate settlement and syndication of ownership and risks as among ratepayers, developers and utilities. Sempra Resources also reiterates its comments presented during the November 6th workshop, namely, that it believes most disputes can be resolved through negotiations between reasonable parties, a belief borne out by recent experience in the California market. To the extent this does not occur, however, Sempra Resources submits that regulatory intervention may be required at least initially as a last resort to encourage and facilitate nonutility investments in new transmission capacity.

D. Summary

Sempra Resources believes the Commission is taking long-overdue steps to address the adequacy of California's transmission infrastructure. The debate sparked by its recommendations regarding siting jurisdiction, whether the Governor and Legislature accept those recommendations or not, has focused policymakers on fixing the current regulatory system everyone has come to recognize as broken. The more recent white paper extends the debate and appropriately serves to assure that the strategic and economic values provided by transmission planning and upgrades will be considered in the future as an intrinsic part of whatever regulatory fixes are adopted. Toward that end, Sempra Resources submits that many of these important values can be served, in some cases uniquely, by encouraging and facilitating nonutility investment in future transmission projects. Therefore, Sempra Resources strongly urges the Commission to include as part of its further

proceedings a consideration of the appropriate policies supportive of nonutility investment in new transmission projects.

Respectfully submitted,

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On behalf of
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